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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,036	02/14/2001	Terence Martin Hinds	Q51544	8219

7590

02/13/2003

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EXAMINER

MAKI, STEVEN D

ART UNIT

PAPER NUMBER

1733

12

DATE MAILED: 02/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/782,036

Applicant(s)

HINDS ET AL.

Examiner

Steven D. Maki

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1733

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 January 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 17 January 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: new issues: see Advisory Action Attachment.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see Advisory Action Attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-5 and 7-31.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_.

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## Advisory Action Attachment

new issues

The new issues include: (1) In claim 1, *adding* the subject matter of claim 9 and adding the limitation of the step of scattering onto the second substrate being "after said second substrate has been applied over the first coating", (2) in claims 10-14, changing the dependency of each of these claims from "claim 9" to --claim 1--, (3) in claim 1, changing "agglomerate" to --gel-- and "agglomerated" to --gelled--.

With respect to "agglomerate" / "agglomerated", the 35 USC 112 first paragraph rejection set forth in the last office action, may be overcome by changing "agglomerate" and "agglomerated" to --fuse--and --fused-- respectively in the claims and the specification. The above suggested changes are reasonably conveyed by the original disclosure (would not constitute new matter) since the original disclosure describes heating powder, granules or pellets of thermoplastic material to manufacture a floor covering; it being noted that the description of "fused" on page 9 line 29 indicates that the thermoplastic material is fusible. Powder, granules or pellets of thermoplastic material **can be fused** by heating. Powder, granules or pellets of thermoplastic material (in sharp contrast to a PVC plastisol) **cannot be gelled** (solidified) by heating. These suggested changes would be entered if submitted in a subsequent after final amendment which does not make additional amendment(s) raising new issue(s).

remarks

Applicant's argument that Schermutzki does not teach applying a second substrate onto a coating formed on a first substrate *before* the application of powder,

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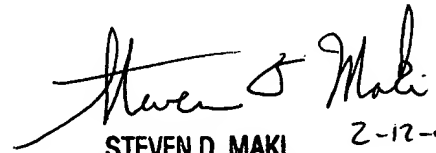
granules or pellets onto the second substrate is not commensurate in scope with the claims and is therefore not persuasive since none of the claims require applying a second substrate onto a coating formed on a first substrate *before* the application of powder, granules or pellets onto the second substrate.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is 703-308-2068. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball can be reached on (703) 308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Steven D. Maki  
February 12, 2003

  
STEVEN D. MAKI  
PRIMARY EXAMINER  
~~GROUP 1300~~  
AU 1733 2-12-03